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### Review of *The Divide: American Injustice in the Age of the Wealth Gap*. Matt Taibbi. Reviewed by Marguerite Rosenthal

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The authors of the chapters in this book are truly outstanding scholars, whose expertise, intellectual prowess, and wisdom about disasters such as that which occurred at Fukushima cannot be questioned. However, the book as a whole is not of especially high quality, and I suspect that few readers will find it of great value. Despite the excellence of the authors, the chapters themselves are of uneven quality, and for the most part are not top-notch, clearly showing that they descend from quickly written (although thoughtful) talks, rather than being designed as analytic, scholarly papers from the start. I have no doubt that the workshop from which this volume stems was exciting and lively, and it would have been wonderful to hear the great minds there present their worthy insights so soon after the disaster, but a great workshop rarely leads to a great edited volume, as this book demonstrates.

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Matt Taibbi, *The Divide: American Injustice in the Age of the Wealth Gap*. Spiegel & Grau (2014). \$27 (hardcover), \$17 (paperback), 416 pages.

Matt Taibbi is a journalist and a contributing editor of *Rolling Stone Magazine* and known for hard-hitting investigative reporting. In this book, he presents stark contrasts between the harsh scrutiny and punishment of the poor—disproportionately Black, Hispanic and immigrant—with that of the big banks and financial services corporations and their executives responsible for the financial meltdown of 2008.

In the last several years, there has been considerable scholarly attention to the enormous growth of the prison population in the U.S. and the reasons for it: finite sentencing, 3-strikes laws, disparate treatment of Whites and Blacks convicted of drug offenses, inadequately funded and therefore over-burdened public defense lawyers, the reliance on plea bargains resulting in imprisonment, and overly aggressive police scrutiny and arrest policies focused especially on poor minority young men. What Taibbi contributes to this literature is his skill in describing the fate of those millions of little guys who are caught up and punished in our criminal justice systems. He

observes the police in action, relaying the actual experiences of individuals' arrest and prison histories (chapter 3), visits and reports on jails, interviews the confined and those who visit them, talks with undocumented immigrants about their terrifying experiences in detention and deportation (chapters 5 & 6), and he describes how public assistance recipients and applicants have been subjected to what he appropriately calls illegal searches of their living spaces and property (chapter 7).

Taibbi intersperses information about specific administrative and judicial policies and their impact on arrest practices, paying particular attention to the abusive practices of the New York City Police Department (arrest quotas and promotions tied to numbers of arrests, e.g.) and the lack of due process procedures for immigrants. He focuses on two specific aspects of our deportation policies that connect to the interests of corporations. The first, the 287(g) immigration "Secure Communities" rule, deputizes all law enforcement officers to become deportation officials; in Georgia, the mandate to arrest and process for deportation any undocumented immigrant ticketed for any infraction (e.g., driving with a broken taillight) was relaxed when owners of chicken processing plants complained that they were losing valuable employees. The other is the federal government's reliance on private prisons—where there has been enormous growth in numbers and profits—to house detainees, each of whom can cost as much as \$166/day. Private prisons are also used by some states. Taibbi reports that the revenues of the Correction Corporation of America (one of the largest) rose from \$300 million in 2000 to \$1.7 billion in 2011 (p. 214).

A major thrust of the book is to document, by comparison, how lightly those at the top of the large banks and hedge funds have been treated. The inner deal-makings of the banks and mortgage financiers are described in Chapter 4, but perhaps the most interesting—and to this reader novel—information is provided in the first two chapters where Taibbi lays out the legal reasoning that has led, if anything, to fines rather than jail time for those responsible for the recent financial crisis. He presents a fascinating history of the doctrine of "Collateral Consequences," written in 1999 by Eric Holder, then a relatively low level U.S. Justice Department lawyer in

the Clinton administration and now the U.S. Attorney General. The most salient aspect of the memo is its instruction that a prosecutor can choose not to charge a corporation or one of its executives criminally if s/he concludes that a conviction would have substantial, punitive impacts on its employees, directors or shareholders (p. 17). It is this mode of legal thinking, less used (surprisingly) by the Bush Justice Department, which has led to the consequence that, to date, not one high level banker has been convicted criminally—they have all been “too big to jail.” Instead, the corporations have negotiated civilly to pay fines that appear, to the general public, to be substantial but in reality are minimal compared to the huge profits that the corporations continue to make.

The scholar accustomed to reading well-referenced material will be frustrated by this book, and Taibbi does little by the way of acknowledging legal scholars whose views differ from his. But those who have been alarmed over the divergent paths of the rich and poor and their manifestation in the justice system will find this easily read book informative and stimulating.

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